

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL DEPOSIT INSURANCE)	
CORPORATION AS RECEIVER FOR)	
BROADWAY BANK,)	
)	
Plaintiff,)	
)	Case No. 12 CV 1665
)	
v.)	Judge John F. Grady
)	
DEMETRIS GIANNOULIAS, GEORGE)	Magistrate Judge Daniel Martin
GIANNOULIAS, JAMES MCMAHON,)	
SEAN CONLON, STEVEN DRY, DONNA)	
ZAGORSKI, STEVEN BALOURDOS,)	
GLORIA SGUROS and ANTHONY)	
D'COSTA,)	
Defendants.)	

**FEDERAL DEPOSIT INSURANCE CORP.'S BRIEF
ADDRESSING *FDIC v. WILLETT'S* INAPPLICABILITY**

FDIC v. Willetts, 2014 U.S. Dist. LEXIS 131804 (E.D.N.C. September 10, 2014), does not affect the propriety of protecting the FDIC-C from producing additional ESI to Defendants. The decision has no precedential value and offers no support for Defendants' position here. *Willetts* was a ruling on a motion for summary judgment, not the proper scope of non-party discovery, and it involved an interpretation of North Carolina law, not the law of Illinois. The opinion contains no discussion of the adequacy of discovery of any party or non-party. There is no indication of what discovery, if any, the *Willetts* defendants received from the FDIC-C. In all likelihood, it was far less than that already produced by the FDIC-C in this case - 45,000 pages of exam reports, examiner and regulatory work papers, and over 10,000 pages of ESI in accordance with search terms negotiated by the FDIC-C and Defendants.

The Court should grant the FDIC-C's motion for protective order and deny the Giannoulas Defendants' Motion to Compel regarding the subpoena dated June 3, 2013 because: (1) the March 21, 2013 order did not expand the scope of the case beyond the 20 Loss Loans; it required the FDIC-R to supplement four interrogatories, which it has done, "because such information relates directly to the FDIC-R's claims regarding the 20 Loss Loans." Dock. No. 206 at 10; (2) based on agreed-upon search parameters, the FDIC-C has produced all ESI (as well as the regulatory work papers) relevant to the 20 Loss Loans; and (3) to require the FDIC-C, a non-party to this litigation, to review and produce additional ESI would be harassing and unduly burdensome. *Willeys* has no bearing on this question at all.

Dated: October 21, 2014

Respectfully submitted,

FEDERAL DEPOSIT INSURANCE
CORPORATION

By: Mary Anne Benden
One of Its Attorneys

Mary Anne Benden
Senior Regional Attorney
Federal Deposit Insurance Corporation
300 S. Riverside Plaza – Suite 1700
Chicago, Illinois 60606
(312) 382-6510
(312) 382-6674 (facsimile)

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served on all counsel of record via e-mail on October 21, 2014.

A handwritten signature in cursive script, reading "Mary Anne Bender", is written over a horizontal line.

FDIC v. Giannoulas, et al.
Case No. 12 CV 1665

SERVICE LIST

William L. Charron
Bryan T. Mohler
Pryor Cashman LLP
7 Times Square
New York, NY 10036
Telephone: (212) 421-4100
bmohler@pryorcashman.com
wcharron@pryorcashman.com

Eric Y. Choi
Neal, Gerber & Eisenberg LLP
Two North LaSalle Street
Suite 1700
Chicago, Illinois 60602
Telephone: (312) 269-8000
echoi@ngelaw.com

***Counsel for Defendants Demetris
Giannoulas and George Giannoulas***

Robert J. Ambrose
David C. Van Dyke
Scott Frost
Joseph W. Barber
Donna Rizzuto
Howard and Howard PLLC
200 South Michigan Avenue
Suite 1100
Chicago, Illinois 60604
Telephone: (312) 372-4000
RAmbrose@howardandhoward.com
DVanDyke@howardandhoward.com
SFrost@howardandhoward.com
JWBarber@howardandhoward.com
drizzuto@howardandhoward.com

Counsel for Defendant James McMahon

Randall M. Lending
Rachel T. Copenhaver
Vedder Price P.C.
222 North LaSalle Street
Suite 2600
Chicago, Illinois 60601
Telephone: (312) 609-7500
relending@vedderprice.com
rcopenhaver@vedderprice.com

***Counsel for Defendants Sean Conlon, Steven
Dry, Dona Zagorski, Steven Balourdos,
Anthony D'Costa and Gloria Sgueros***

Susan G. Feibus
F. Thomas Hecht
Dean J. Polales
Richard H. Tilghman
Seth A. Horvath
Ungaretti & Harris
70 West Madison
Suite 3500
Chicago, IL 60602
sgfeibus@uhlaw.com
fthecht@uhlaw.com
dipolales@uhlaw.com
rhtilghman@uhlaw.com
sahorvath@uhlaw.com

***Counsel for Plaintiff FDIC, Receiver for
Broadway Bank***